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January 25, 2022

VIA ECF

The Honorable Leda Dunn Wettre, U.S.M.J.
United States District Court
District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07102

Re: CommScope, Inc. v. Rosenberger Technology (Kunshan) Co. Ltd., et al.
Civil Action No. 2:19-cv-15962-JXN-LDW

Dear Judge Wettre,

This office represents plaintiffs CommScope, Inc., CommScope, Inc. of North Carolina and CommScope Technologies, LLC (collectively, "CommScope") in the above-referenced matter. We write on behalf of all parties to submit the within *Stipulation To Extend Deposition and Expert Deadlines In Light Of The Omicron Variant Of The Coronavirus And Related COVID-19 Restrictions* (the "Stipulation") for entry by Your Honor.

Previously, on December 3, 2021, the parties submitted a joint request (ECF No. 489)¹ seeking an extension of discovery deadlines to allow for the coordination of depositions in this case and another case between a number of the same parties pending in the United States District Court for the District of Delaware.² Upon consideration of that request, the Court entered the Amended Scheduling Order (ECF No. 494) which extended the deadlines as follows: i) deadline to conduct depositions - extended to March 31, 2022; ii) deadline to deliver affirmative expert reports - extended to May 20, 2022; iii) deadline to deliver responding expert reports - extended to June 29, 2022; and iv) deadline to complete expert discovery - extended to August 31, 2022.

¹ In accordance with the Court's direction, this filing was re-submitted publicly on December 16, 2021. ECF No. 492.

² That matter involves patents related to the base station antennas ("BSAs") and is numbered 1:20-cv-01053-RGA (the "Delaware Case").



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However, in the time since the parties made their joint request, the Omicron Variant of the coronavirus ("Omicron Variant") has exponentially spread locally and abroad. This led various countries, including China, to recently impose international travel restrictions to help eliminate the spread of the Omicron Variant. For example, the government of China now requires international travelers to the relevant areas of China to quarantine for 28 days upon arrival. Many witnesses are located in China and will need to travel to another location for their depositions because it is illegal for them to participate in mainland China in a deposition for a United States legal proceeding. As a result, any travel at the present time—even if it were possible—will require each witness to quarantine for 28 days upon his or her return to mainland China, unless and until the quarantine requirement is lowered or lifted. The parties have considered the additional burden this new restriction places on the witnesses and have reconsidered the timing of the depositions in light of it.

Information coming from parts of the world where the Omicron Variant is believed to have originated indicates that the Omicron Variant may have reached its peak. Because of that, the parties believe that any increased restrictions made for the Omicron Variant may be lifted in a matter of months. Extending the pre-trial schedule would allow the parties to accommodate the significant issues created by the 28-day quarantine requirement. If the requirement is removed or reduced in the coming months, as seems quite possible, extending the schedule would also significantly reduce the burden on witnesses.

Therefore, the parties respectfully request the Court enter the Stipulation and extend the deadlines of the Amended Scheduling Order by approximately 3.5 months, as set forth specifically below:

- i) Deadline to conduct depositions - extended from March 31, 2022 to July 15, 2022;
- ii) Deadline to deliver affirmative expert reports - extended from May 20, 2022 to August 5, 2022;
- iii) Deadline to deliver responding expert reports - extended from June 29, 2022 to October 14, 2022; and
- iv) Deadline to complete expert discovery - extended from August 31, 2022 to October 14, 2022.

Yesterday, the parties in the Delaware Case requested a similar extension of the deadlines. The judge in that case, The Honorable Richard Andrews, indicated that he would be agreeable to an extension of the deadlines in the Delaware Case corresponding to any extension Your Honor might grant in this case.

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If the enclosed Stipulation is acceptable, the parties respectfully request that Your Honor “so order” this letter submission, thereby granting this request. If Your Honor has any questions, please let the parties know at the Court’s earliest convenience and we will work to address them as soon as possible.

Respectfully submitted,

NORRIS McLAUGHLIN, P.A.

/s/ Edward G. Sponzilli
Edward G. Sponzill

CC: Counsel of record (via ECF)

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Stipulation To Extend Deposition and Expert Deadlines In Light Of The Omicron Variant
Of The Coronavirus And Related COVID-19 Restrictions

Whereas the parties to this action are attempting to schedule thirty fact depositions, many of which require travel, including international travel;

Whereas the new Omicron Variant of the Coronavirus ("Omicron Variant") has caused additional restrictions on international travel to be put in place, including prohibitions on travel to relevant countries and increasingly burdensome on-return quarantine requirements for those who are allowed to travel;

Whereas one such restriction imposed by the government of China in response to the Omicron Variant would require numerous deponents in this case to quarantine for 28 days upon their return to China;

Whereas witnesses based in China are not allowed to provide testimony from mainland China and thus they will need to travel to provide deposition testimony;

Whereas information coming from parts of the world where the Omicron Variant is believed to have originated indicates that the related increased restrictions may be able to be lifted in a matter of months;

Whereas the parties have conferred and have agreed that an extension of certain pre-trial deadlines would allow them to accommodate the scheduling issues created by the restrictions recently imposed due to the Omicron Variant and, in the event the restrictions are lifted or reduced during that period, to reduce the burden on witnesses;

Whereas several of the parties to this action are also parties to a patent case pending in the United States District Court for the District of Delaware, which involves patents related to the base station antennas ("BSAs") and technology at issue in this case, and which case is numbered 1:20-cv-01053-RGA ("the Delaware Case");

Whereas the parties anticipate that many of the witnesses to be deposed in this case will also be deposed in the Delaware Case, and the parties have agreed to coordinate the depositions in a way that will minimize the burden on the witnesses and counsel;

Whereas on January 24, 2022, counsel for the parties to the Delaware Case appeared before the judge in that case, The Honorable Richard Andrews, and requested a similar extension of the deadlines in the Delaware Case. Judge Andrews indicated that he would be agreeable to an extension of the deadlines in the Delaware Case corresponding to any extension the Court might grant in this case;

Whereas the fact-deposition deadline in this case is currently set for March 31, 2022, and the expert-discovery deadline is currently set for August 31, 2022;

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Now therefore, in light of the additional restrictions related to the Omicron Variant, the parties hereby jointly request that the Court extend by 3.5 months the period in which fact depositions can be taken. Specifically, the parties hereby jointly request that the Court extend the period in which depositions can be taken in this matter by 3.5 months from March 31, 2022 to July 15, 2022. The existing discovery cutoff in this matter (January 31, 2022) will remain in place with respect to all other fact discovery; the extension with respect to the period in which depositions can be taken cannot be used to demand additional written discovery or to argue for additional depositions. The parties further jointly request that the Court extend the expert-discovery deadline by approximately 3.5 months, from August 31, 2022 to December 15, 2022, with opening expert reports due on August 5, 2022, and rebuttal expert reports due on October 14, 2022.

So Ordered:

Hon. Leda Dunn Wettre, U.S.M.J.

Dated: